

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 Case No.: 2:20-cv-00326-JAD-VCF

4 ELIJAH L. PALMER, *et al.*,

5 Plaintiff

Order Dismissing Action

6 v.

7 LAS VEGAS METROPOLITAN POLICE  
8 DEPARTMENT, *et al.*,

9 Defendants

10 Plaintiff Jeff Kerr brings this civil-rights case under § 1983 for events he alleges occurred  
11 during his incarceration at Clark County Detention Center (“CCDC”).<sup>1</sup> On February 13, 2020,  
12 the Court directed Plaintiff Kerr to file an amended complaint and a fully completed application  
13 to proceed *in forma pauperis* or pay the \$400 filing fee.<sup>2</sup> The Court expressly warned him that  
14 his failure to file an amended complaint and a complete application to proceed *in forma pauperis*  
15 or pay the filing fee within 30 days from the date of that order would result in the dismissal of  
16 this case.<sup>3</sup> The deadline has passed, and Plaintiff Kerr has not responded to the Court’s order.

17 District courts have the inherent power to control their dockets and “[i]n the exercise of  
18 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>4</sup> A  
19 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,  
20 failure to obey a court order, or failure to comply with local rules.<sup>5</sup> In determining whether to

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22 <sup>1</sup> ECF No. 2 (complaint).

23 <sup>2</sup> ECF No. 1 (order).

24 <sup>3</sup> *Id.*

25 <sup>4</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

26 <sup>5</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
27 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
28 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with  
2 local rules, the court must consider several factors: (1) the public's interest in expeditious  
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
5 availability of less drastic alternatives.<sup>6</sup>

6 I find that the first two factors—the public's interest in expeditiously resolving the  
7 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.  
8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury  
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
10 prosecuting an action.<sup>7</sup> The fourth factor is greatly outweighed by the factors in favor of  
11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in  
12 dismissal satisfies the consideration-of-alternatives requirement.<sup>8</sup> Plaintiff Kerr was warned that  
13 his case would be dismissed if he failed to file an amended complaint and submit a completed  
14 application within 30 days, or pay the filing fee.<sup>6</sup> So, Plaintiff Kerr had adequate warning that his  
15 failure to file an amended complaint and submit a completed application or pay the filing fee  
16 would result in this case's dismissal.

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20 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to  
21 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.  
22 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

23 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
24 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 <sup>7</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

26 <sup>8</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

27 <sup>6</sup> ECF No. 1 (order).

Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without prejudice based on Plaintiff Kerr's failure to file an amended complaint and submit a completed application or pay the filing fee in compliance with this Court's February 13, 2020, order; and

The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.

Dated: March 30, 2020.

  
U.S. District Judge Jennifer A. Dorsey